INFORMATION BULLETIN

December 21, 2012 **2012-6**

CHANGES TO VARIOUS FISCAL MEASURES

This information bulletin provides a detailed description of the changes made to certain fiscal measures affecting individuals as well as businesses. These changes involve, among other things, the adjustment, for 2012, of the exemptions allowed for the purposes of calculating the premium for Québec's public prescription drug insurance plan and certain application details of the refundable tax credit for the development of e-business.

In addition, this bulletin announces an increase in the lodging tax in the Lanaudière, Mauricie, Saguenay–Lac-Saint-Jean and Charlevoix tourist regions as of February 1, 2013, following requests to that effect submitted by the tourist associations of these regions.

It also makes public Québec's position on many changes made or proposed during 2012 to the federal tax legislation and regulations.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et des politiques locales et autochtones at 418 691-2236.

The French and English versions of this bulletin are available on the Ministère des Finances et de l'Économie website at: www.finances.gouv.qc.ca.

CHANGES TO VARIOUS FISCAL MEASURES

1. **MEASURES CONCERNING INDIVIDUALS** **3**

   1.1 Exemptions under the Québec prescription drug insurance plan 3

   1.2 Pensionable earnings of family-type resources and certain intermediate resources for the purposes of the QPP and the QPIP 5

   1.3 Transitional rule concerning the recognition of private seniors' residences for the purposes of the refundable tax credit for home support of seniors 8

   1.4 Tax payable following the application of the averaging mechanism for lump-sum payments or a retrospective determination of certain benefits 10

2. **MEASURES CONCERNING BUSINESSES** **12**

   2.1 Changes to the refundable tax credit for the development of e-business 12

   2.2 Streamlining of the refundable tax credits designed to encourage the creation of new financial services corporations 19

   2.3 Clarification concerning the refundable tax credit for resources 20

3. **OTHER MEASURES** **21**

   3.1 Increase in the lodging tax in the Lanaudière, Mauricie, Saguenay–Lac-Saint-Jean and Charlevoix tourist regions 21

   3.2 Recognition of certain investments made by Capital régional et coopératif Desjardins 22

4. **FEDERAL LEGISLATION AND REGULATIONS** **25**

   4.1 Online filing of tax returns prepared by tax preparers 25

   4.2 Draft legislation concerning specified investment flow-through entities, real estate investment trusts and publicly traded corporations 26

   4.3 Tax treatment of payments by the federal government to the parents of a crime victim 27

   4.4 Harmonization with certain measures contained in the *Jobs and Growth Act, 2012* 28

   4.5 Harmonization with certain measures contained in Bill C-48 34

1. MEASURES CONCERNING INDIVIDUALS

1.1 Exemptions under the Québec prescription drug insurance plan

The prescription drug insurance plan introduced by the Québec government ensures all Quebecers fair access to the medication required by their state of health. Coverage under this plan is provided either by the Régie de l'assurance maladie du Québec as administrator of the public prescription drug insurance plan, or by insurers providing group insurance or administrators of private-sector employee benefit plans.

As a general rule, the Régie de l'assurance maladie du Québec provides coverage for persons who are not required to participate in a group insurance contract or an employee benefit plan applicable to a specified group of persons as well as coverage for those persons whom none is required to cover.

Adults registered with the Régie de l'assurance maladie du Québec are required to contribute to the payment of the cost of pharmaceutical services and prescription drugs supplied to them whenever a prescription is filled or renewed. This contribution, which is subject to a maximum amount, consists of a deductible[1] and a portion of coinsurance.[2]

However, adults whose income consists essentially of social assistance payments based on an examination of resources, needs or income are exempt from paying any contribution. This exemption, which targets the most disadvantaged persons, is geared more specifically to persons eligible for a last-resort financial assistance program stipulated in the *Individual and Family Assistance Act*,[3] as well as to persons age 65 or over who receive, under the *Old Age Security Act*,[4] 94% or more of the maximum monthly guaranteed income supplement determined without including the additional amount allowed since July 2011.

As a general rule, adults not covered by group insurance or a private sector employee benefits plan throughout a year must pay for such year a premium to finance the public prescription drug insurance plan. For 2012, the maximum premium payable is $571 per adult.

However, most adults who are exempt from contributing to payment of the cost of pharmaceutical services and prescription drugs provided for them under the public plan are also exempt from paying this premium.

Moreover, to reflect a household's ability to pay, the premium payable by an adult for a year is determined on the basis of family income, from which an exemption amount based on the household's composition is subtracted.[5]

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1 The deductible is the portion of the cost of pharmaceutical services and prescription drugs that a person covered by the plan is fully responsible for during the reference period. Since July 1, 2012, the amount of the deductible is $195 per year, divided into equal monthly parts.

2 The coinsurance is the proportion of the cost of pharmaceutical services and prescription drugs that is charged to the covered person. Since July 1, 2009, the coinsurance proportion is 32%.

3 S.Q., chapter A-13.1.1.

4 R.S.C., 1985, c. O-9.

5 The amount that must be applied to reduce family income makes it possible to exempt from payment of the premium adults whose family income is below a certain threshold.

Since the introduction of the public prescription drug insurance plan, the amount of these exemptions has been adjusted annually to protect households' purchasing power. In addition, to ensure that the premium remains progressive, two contribution rates are applicable. The first rate[6] applies to the first $5 000 of covered income and the second,[7] to income in excess of $5 000.

Accordingly, to maintain the principles underlying the determination of the premium payable to the public prescription drug insurance plan, the amount of each exemption currently allowed in setting the threshold at which a premium becomes payable will be adjusted for 2012.

The following table shows the amount of each of the exemptions that will be allowed for 2012 according to household composition.

Amount of the exemptions allowed for the purposes of calculating the premium for the public prescription drug insurance plan for 2012
(dollars)

Household composition	Exemption amount
1 adult, no children	14 730
1 adult, 1 child	23 880
1 adult, 2 or more children	27 055
2 adults, no children	23 880
2 adults, 1 child	27 055
2 adult, 2 or more children	29 985

For greater clarity, the amounts shown in the above table will also be used to determine whether an adult is, according to the composition of his household, exempt from paying the health contribution for 2012 and the new health contribution that will be implemented as of 2013.

6 For 2012, the first contribution rate is 5.92% for a single person and 2.99% for a person living in a couple.

7 For 2012, the second contribution rate is 8.91% for a single person and 4.47% for a person living in a couple.

1.2 Pensionable earnings of family-type resources and certain intermediate resources for the purposes of the QPP and the QPIP

The *Act respecting health services and social services*[8] stipulates the use of family-type resources or intermediate resources for placing persons, whether minors or adults, suffering from various difficulties.

In general, family-type resources consist of foster families for young people under age 18 and group homes for adults and seniors. They consist of one or two persons who receive in their principal place of residence a maximum of nine children in difficulty or nine adults or seniors entrusted to them by a public institution to meet their needs and provide them with living conditions fostering a parent-type relationship in a family context or approaching those of a natural environment as closely as possible, as the case may be.

Intermediate resources, for their part, provide persons of any age with a living environment adapted to their needs and deliver the support or assistance services required by their condition. This category includes many types of residential organizations that provide the user with the services required by their condition.

Since June 2009, individuals who are responsible for a family-type resource are covered by the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements*,[9] hereunder the "Act respecting the representation of resources". This also applies for individuals who are responsible for an intermediate resource if they receive in their principal place of residence a maximum of nine users who have been entrusted to them by one or more public institutions and, in the temporary absence of users, they maintain their principal place of residence for use as a residence for such persons.

The Minister of Health and Social Services sets a classification of services offered by these resources that is based on the degree of support or assistance the users require. For each type of services covered by this classification, a resource's remuneration is determined in accordance with the Act respecting the representation of resources if the resource is represented by an association recognized under such Act and, if not, by the Minister of Health and Social Services.

To reflect the fact that the individuals responsible for a resource covered by the Act respecting the representation of resources are not required to include the remuneration granted to them on that account in the calculation of their income,[10] various amendments have been made to the *Act respecting Parental insurance*[11] and the *Act respecting the Québec Pension Plan*[12] for these individuals to participate, as of 2012, in the plan established under these statutes.

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8 S.Q., chapter S-4.2.

9 S.Q., chapter R-24.0.2.

10 *Taxation Act* (S.Q., chapter I-3), par. 489c.2).

11 S.Q., chapter A-29.011.

12 S.Q., chapter R-9.

These amendments stipulate in particular the applicable rules for determining the portion of the remuneration of an individual responsible for a family-type resource or intermediate resource that must be used for the purposes of calculating his pensionable earnings for the purposes of the Québec Parental Insurance Plan and the Québec Pension Plan.

Briefly, the *Act respecting Parental insurance* and the *Act respecting the Québec Pension Plan* were amended to stipulate, in the first case, that the eligible remuneration as family-type resource or as intermediate resource of a person for a year and, in the second case, that the earnings of a worker as a family-type resource or as an intermediate resource for a year correspond to the total of the amounts each of which represents a remuneration for services provided as a person responsible for such a resource for the year.

In this regard, the remuneration of a person or a worker, as the case may be, for services provided as person responsible for a given family-type resource or intermediate resource for a year is equal to the excess of the aggregate of the amounts each of which corresponds to an amount received by the resource in the year on account of a remuneration mentioned in subparagraph 1 or 2 of the third paragraph of section 303 of the *Act respecting health services and social services* over the total of the following amounts:

- the portion of such aggregate that, under the terms of a collective agreement governing the payment of the remuneration or, if there is no such agreement, of a decision by the Minister of Health and Social Services taken with the authorization of the Conseil du trésor pursuant to subparagraph 2 of the third paragraph of section 303 of the *Act respecting health services and social services*, is attributable to the total of the following amounts:
  - the amount of reasonable operating expenditures brought about in the course of delivering the services of the family-type resource or the intermediate resource,
  - the aggregate of the financial compensations mentioned in subparagraphs *b* and *c* of paragraph 4 of section 34 of the Act respecting the representation of resources;[13]
- the portion of such aggregate that corresponds to the total of the amounts each of which is an eligible expenditure paid for the year to enable the family-type resource or the intermediate resource to receive assistance or to be replaced in the course of their delivery of services.

Where a person or a worker, as the case may be, is not the only person responsible for a given family-type resource or intermediate resource for a year, his remuneration for services provided as person responsible for the resource for the year is equal to the portion of such remuneration otherwise determined represented by his share in the aggregate of the amounts received in the year by the resource on account of a remuneration mentioned in subparagraph 1 or 2 of the third paragraph of section 303 of the *Act respecting health services and social services*.

13 I.e. the financial compensation paid, on the one hand, to match the contribution rate applicable to the resource to participate in the Québec Parental Insurance Plan and the Québec Pension Plan with the contribution rate applicable to an employee or a wage-earner, as the case may be, and, on the other, enable the resource to enjoy the protection provided by the *Act respecting industrial accidents and occupational diseases*.

Moreover, during 2012, seven collective agreements were entered into with associations recognized under the Act respecting the representation of resources. Six of these were entered into in August and the seventh in November. In addition, on August 20, 2012, the Minister of Health and Social Services set the working conditions of family-type resources and intermediate resources covered by the Act respecting the representation of resources but not represented by a recognized association.

In principle, these collective agreements and working conditions are not retroactive in effect. However, as far as the remuneration granted to resources is concerned, they include certain provisions stipulating a retroactive effect as far back as January 1, 2012.

In view of the time required to implement the necessary administrative systems for payment of the remuneration granted by the collective agreements or working conditions, as the case may be, many resources covered by the Act respecting the representation of resources will not have received, before the end of 2012, all of the remuneration to which they are entitled for that year. As a result, for these individuals, the eligible remuneration as a family-type resource or as an intermediate resource for the purposes of the Québec Parental Insurance Plan and the earnings as a family-type resource or as an intermediate resource for the purposes of the Québec Pension Plan will not correspond to what they should have been for 2012.

Given that, for the purposes of these social security plans, pensionable earnings for a year can influence the amount of benefits, the rules applicable to the determination, for 2012, of the remuneration of a person or a worker, as the case may be, for services provided as person responsible for a resource will be changed so that the remuneration attributable to 2012 that will be paid to the resource during 2013 is included.

More specifically, the *Act respecting Parental insurance* and the *Act respecting the Québec Pension Plan* will be amended to stipulate that, to determine the remuneration of a person or a worker, as the case may be, for services provided as person responsible for a given family-type resource or intermediate resource for 2012, the aggregate of the amounts each of which corresponds to an amount received by the resource for 2012 on account of a remuneration mentioned in subparagraph 1 or 2 of the third paragraph of section 303 of the *Act respecting health services and social services* must be included.

As a corollary, these statutes will be amended to stipulate that any amount received in 2013 on account of remuneration attributable to 2012 must not be included in the determination of the remuneration of a person or a worker, as the case may be, for services provided as person responsible for a given family-type resource or an intermediate resource for 2013.

In addition, so that, for a given year after 2012, the remuneration of a person or a worker for services provided as a person responsible for a resource better represents the remuneration attributable to the services provided in such year, the *Act respecting Parental insurance* and the *Act respecting the Québec Pension Plan* will be amended to stipulate that any amount received by a resource on account of a remuneration mentioned in subparagraph 1 or 2 of the third paragraph of section 303 of the *Act respecting health services and social services* during a given month included in a period beginning February 1 of a year and ending January 31 the following year will be deemed to have been received during the month preceding the given month.

Moreover, it will be specified that the amendment that will be made to the *Act respecting Parental insurance* for 2012 will not result in reducing the benefits that will have been paid during 2012 under the Québec Parental Insurance Plan to a person responsible for a resource covered by the Act respecting the representation of resources.

1.3 Transitional rule concerning the recognition of private seniors' residences for the purposes of the refundable tax credit for home support of seniors

The tax system grants a refundable tax credit to individuals age 70 or over who obtain certain home support services. This tax credit, whose purpose is to avoid or delay the lodging of elderly persons in the public health and social services network may, upon request, be paid in advance.

In general, the expenses eligible for the tax credit correspond to the amounts paid by an elderly person in consideration for recognized home support services supplied to him, either by an entrepreneur or by his own employee, excluding the cost of food, beverages, materials or other property acquired by the person in the course of the delivery of the service.

For the purposes of this tax credit, recognized home support services consist of personal assistance services and maintenance or supply services.

Where an elderly person rents a dwelling unit (room, studio or apartment) and the rent includes the cost of recognized home support services, a portion of the rent attributable to the services may be an expense eligible for the tax credit.

In this regard, a person who pays rent to live in a residence for elderly persons must determine the amount of eligible expenses included in his rent using a table for setting expenses provided for that purpose. This table assigns a value to the various recognized home support services offered by residences for elderly persons and that the tenants agree to pay in their rent.

However, if an elderly person pays rent to live in another type of rental building, the amount of eligible expenses included in his rent is limited to 5% of the portion of the monthly rent for which he is responsible, up to an overall rent of $600 per month.

This distinction is justified by the quantity of services offered by residences for elderly persons.

In view of the entry into force, no later than November 30, 2012, of many provisions of the *Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences*,[14] hereunder the "Act to tighten up the certification process for private seniors' residences", it was announced, in the 2012-2013 Budget Speech, that various amendments would be made to the tax credit, as of January 1, 2013, to improve the assistance to seniors.

14 S.Q. 2011, chapter 27. The Bill was assented to on November 30, 2011.

Accordingly, to keep the government's action in favour of seniors living in a residence consistent, it was announced at that time that for an elderly person to be able, for any given month after the month of December 2012, to use a table setting the expenses to determine the eligible expenses included in his rent, such person must live in a congregate residential facility or part of such a facility whose operator holds, at the beginning of the given month, a temporary certificate of compliance or a certificate of compliance issued by the health and social services agency of the region where the building is located, hereunder "private seniors' residence", or in a private residential long-term care centre not under agreement.

However, transitional rules harmonized with those stipulated in the Act to tighten up the certification process for private seniors' residences were announced to ensure a smooth transition.

Although nine months have passed since the 2012-2013 Budget Speech was tabled, many residences for elderly persons recognized for the purposes of the tax credit for 2012 are still not included in the register of private seniors' residences drawn up by the health and social services agencies.

According to the established rules, the amount of eligible expenses included in a rent paid to live in such a residence should, as of January 2013, be limited to 5% of the monthly rent, up to a rent of $600 per month.

To prevent low-income elderly persons living in such residences from receiving a smaller amount than what they used to receive in advance and to allow Revenu Québec and the health and social services agencies the time needed to properly inform both persons living in such residences and those operating them of what the failure to be included in the register of private seniors' residences implies, another transitional rule will be put in place.

More specifically, the tax legislation will be amended to stipulate that a congregate residential facility that, at the beginning of December 2012, was not listed in the register of private seniors' residences, but was a residence for elderly persons for the purposes of the refundable tax credit for the home support of an older person will be considered a private seniors' residence until June 30, 2013, unless the operator of such facility receives notice before that date indicating the maximum period for ending the activities of the residence, in which case the facility will be considered a private seniors' residence until the date such activities end.

As a result, persons age 70 or over who live in a congregate residential facility that, at the beginning of a given month, is deemed a private seniors' residence may determine, for such month, the amount of eligible expenses included in their rent using the table for determining expenses provided for that purpose.

1.4 Tax payable following the application of the averaging mechanism for lump-sum payments or a retrospective determination of certain benefits

The tax system stipulates that, in certain circumstances, an individual may be required to add, to his tax otherwise payable for a given taxation year, an amount relating to a prior taxation year.

Such an addition may arise from use of the averaging mechanism for lump-sum payments by an individual who, during a given taxation year, receives eligible retroactive payments[15] that relate to one or more prior years for a total of at least $300. The purpose of this averaging mechanism is to prevent an individual from paying, for the given taxation year, more tax than what he would have paid had such payments been received and taxed during each of the years to which they relate.

Briefly, an individual who made use of the averaging mechanism for lump-sum payments for a given year is required to add, to his tax otherwise payable for the year, an amount equal to the aggregate of the amounts each of which represents, for a prior year to which the eligible retroactive payments relate, the additional amount of tax that would have been payable and the portion of the tax credits that could not have been transferred, had such payments been received during such year.

In addition, in the interests of fairness, this averaging mechanism provides for the addition, to the tax otherwise payable for the taxation year in which it is used, of an amount in lieu of interest calculated on the amount of any adjustment attributable to a year prior to the taxation year preceding the one during which the eligible retroactive payments were received.

Moreover, to reduce the iniquity associated with receiving certain income replacement benefits paid under a public compensation plan,[16] the recipients of such benefits must make an adjustment to their tax payable to reflect the fact that part of the basic tax credit is taken into consideration both in the method of determination of these benefits and in the calculation of tax payable regarding their other income.

In general, the benefits giving rise to such an adjustment are those that, according to the terms of the public compensation plan under which they are paid, consist of an income replacement indemnity or compensation for the loss of financial support and are established on the basis of a net income.

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15 This may consist of income from an office or employment received under the terms of a court judgment, arbitration award or a contract by which the parties put an end to a lawsuit, a benefit under the Québec Pension Plan, the Canada Pension Plan, the Québec Parental Insurance Plan or federal employment-insurance legislation, a universal child care benefit or any other amount, other than an income from an office or employment, whose taxation in the year it is received would result, in the view of the Minister of Revenue, in an undue additional tax burden.

16 A public compensation plan essentially means a plan established under a statute of Québec or of another jurisdiction, or under a regulation made pursuant to such statute, stipulating the payment of benefits further to an accident, employment injury, bodily harm or death or to prevent bodily harm, other than the *Act respecting the Québec Pension Plan* (S.Q., chapter R-9) or any other statute establishing a plan equivalent to the one established under that Act. The plan stipulated by the *Act respecting industrial accidents and occupational diseases* (S.Q., chapter A-3.001), the plan stipulated by the *Automobile Insurance Act* (S.Q., chapter A-25) and the plan stipulated by the *Crime Victims Compensation Act* (S.Q., chapter I-6) are all examples of public compensation plans.

Where the benefits are received by an individual in the year in which they are determined, the adjustment results in a reduction of the amount allowed the individual for the year for the purposes of the calculation of his basic tax credit. However, if the benefits are determined for the individual during a given year retrospectively and such determination, had it been made in the prior year to which the benefits relate, would have resulted in changing the amount included in the calculation of his tax otherwise payable for such prior year, the individual may be required to add an amount to his tax otherwise payable for the given year.

Currently, where an individual uses the averaging mechanism for lump-sum payments or a retrospective determination of a benefit under a public compensation plan is made regarding him and, as a result, an amount must be added to his tax otherwise payable for a given year, the *Taxation Act*[17] does not specify whether such amount must be added before or after deducting the amounts the individual uses to reduce his tax otherwise payable for the year.

Accordingly, to maintain the integrity of the tax system, the tax legislation will be amended to stipulate that, where an addition must be made in the tax otherwise payable of an individual for a given taxation year after taxation year 2012 further to the application of the averaging mechanism for lump-sum payments or the retrospective determination of a benefit under a public compensation plan, such addition must be made after all the amounts allowed the individual to reduce his tax otherwise payable for the year have been deducted.

17 S.Q., chapter I-3.

2. MEASURES CONCERNING BUSINESSES

2.1 Changes to the refundable tax credit for the development of e-business

To consolidate the development of information technology throughout Québec, the government introduced, in the March 13, 2008 Budget Speech, the refundable tax credit for the development of e-business (hereunder "TCEB").[18]

Since its implementation, a variety of changes have been made to this fiscal measure to protect its integrity and ensure that it contributes to achieving the government's economic objectives.[19]

Briefly, the TCEB, whose rate is 30%, is granted to an eligible corporation that pays salaries to eligible employees carrying out an eligible activity. The amount of the tax credit may not exceed $20 000 per employee, per year.

To receive the TCEB for a taxation year, a corporation must obtain an eligibility certificate from Investissement Québec. This certificate is issued provided the corporation maintains a minimum of six eligible employees throughout the taxation year and satisfies certain other requirements both regarding the activities carried out (hereunder "criteria relating to activities") and services supplied (hereunder "criterion relating to services supplied") in the course of carrying on its business. The corporation must also obtain an annual eligibility certificate from Investissement Québec for each of its employees regarding whom it wishes to claim the TCEB.[20]

These criteria are designed to ensure that the tax assistance is granted to a corporation that is actively involved in the information technology sector and contributes to the development of e-business in Québec.

To help achieve the TCEB's objectives, changes will be made to this tax credit regarding the criteria relating to activities and the criterion relating to services supplied. In addition, a change will be made to the calculation details of the TCEB.

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18 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2008-2009 – Additional Information on the Budgetary Measures*, March 13, 2008, p. A.79-A.85.

19 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2008-4*, May 15, 2008.

MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2009-2010 – Additional Information on the Budgetary Measures*, March 19, 2009, p. A.40-A.44.

MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2010-2011– Additional Information on the Budgetary Measures*, March 30, 2010, p. A.89-A.97.

MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2010-7*, October 29, 2010, p. 4-15.

20 *Act respecting the sectoral parameters of certain fiscal measures* (S.Q., chapter P-51.), Appendix A, sec. 13.3.

❑ Changes to the criteria relating to activities

To qualify as an eligible corporation for a taxation year, a corporation must satisfy the following requirements:

- on the one hand, for the taxation year or for the preceding taxation year, the corporation must earn at least 75% of its gross income from activities in the information technology sector grouped under the following nine codes of the North American Industry Classification System (NAICS codes):[21]
  - 334110 Computer and Peripheral Equipment Manufacturing,
  - 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,
  - 417310 Computer, Computer Peripheral and Pre-Packaged Software Wholesaler-Distributors,
  - 443120 Computer and Software Stores,
  - 511210 Software Publishers,
  - 51821 Data Processing, Hosting and Related Services,
  - 541510 Computer Systems Design and Related Services,
  - 561320 Temporary Help Services,
  - 561330 Professional Employer Organizations;
- on the other hand, for the taxation year or for the preceding taxation year, the corporation must earn at least 50% of its gross income from activities grouped under the following four NAICS codes:
  - 511210 Software Publishers,
  - 541510 Computer Systems Design and Related Services,
  - 561320 Temporary Help Services,
  - 561330 Professional Employer Organizations.[22]

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21 The description of these codes is available on the Statistics Canada website: www.statcan.gc.ca/pub/12-501-x/12-501-x2007001-eng.pdf (viewed December 20, 2012).

22 *Act respecting the sectoral parameters of certain fiscal measures*, Appendix A, sec. 13.4 and 13.5, subp. 1.

However, the activities of NAICS codes 561320 and 561330 are considered for the purposes of these percentages only if they are carried out for the benefit of a customer of the corporation with which it is at arm's length, and only if they bear on the supply of employees mainly carrying out activities grouped under any of the following seven NAICS codes:

- 334110 Computer and Peripheral Equipment Manufacturing;
- 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing;
- 417310 Computer, Computer Peripheral and Pre-Packaged Software Wholesaler-Distributors;
- 443120 Computer and Software Stores;
- 511210 Software Publishers;
- 51821 Data Processing, Hosting and Related Services;
- 541510 Computer Systems Design and Related Services.[23]

In addition, the corporation's gross income earned from activities grouped under NAICS codes 561320 and 561330, for the taxation year or the preceding taxation year, must be less than that earned from the corporation's activities grouped under NAICS codes 511210 and 541510 for such taxation year or such preceding taxation year, as the case may be.[24]

■ Addition of new activities in the information technology sector

A new category of activities will be considered for the eligibility of a corporation for the TCEB and will be added to the activities of the information technology sector grouped under the current nine NAICS codes.[25]

More specifically, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended so that the criteria relating to activities also include the activities grouped under NAICS code 334410 Semiconductor and Other Electronic Component Manufacturing.[26]

This change will apply regarding a taxation year of a corporation that ends after the day of publication of this information bulletin.

■ Changes to personnel leasing activities

The conditions specific applicable to personnel leasing activities grouped under NAICS codes 561320 and 561330 will be changed to reflect the development of business processes of corporations that carry out activities in the information technology sector.

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23 *Ibid.*, Appendix A, sec. 13.5, subp. 2, par. 1.

24 *Ibid.*, Appendix A, sec. 13.5, subp. 2, par. 2.

25 *Ibid.*, Appendix A, sec.13.5, subp. 1.

26 For greater clarity, the 75% minimum percentage of a corporation's gross income that must be satisfied for it to qualify as an eligible corporation will be calculated taking into account the addition of activities grouped under NAICS code 334410.

- **Withdrawal of the condition bearing on the arm's length requirement**

It appears that some corporations cannot qualify as eligible corporations for the purposes of the TCEB because, according to their business model, corporations in the same corporate group can carry out work relating to the same mandate. Accordingly, personnel leasing may occur among corporations of the same group. However, the ultimate goal of this business model is to provide a service to a customer that is not part of the corporate group.

In this context, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended concerning the criteria relating to activities in order to withdraw the requirement that the personnel leasing activities grouped under NAICS codes 561320 and 561330 must be carried out for the benefit of a customer at arm's length with the corporation.[27]

This change will apply regarding a taxation year of a corporation that begins after the day of publication of this information bulletin.

- **Adjustment to the calculation of gross income from personnel leasing**

To ensure the integrity of the objectives of the TCEB, an adjustment will be made to the calculation of a corporation's gross income from personnel leasing, by considering the gross income earned from activities grouped under NAICS code 561310 Employment Placement Agencies and Executive Search Services.

More specifically, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended regarding the criteria relating to activities so that a corporation may qualify as an eligible corporation only if its gross income for a taxation year arising from all of its activities grouped under NAICS codes 561310, 561320 and 561330 is less that its gross income, for such year, arising from its activities grouped under NAICS codes 511210 and 541510.[28]

This change will apply regarding a taxation year of a corporation that begins after the day of publication of this information bulletin.

❑ Changes to the criterion relating to services supplied in order to add gross income from activities grouped under NAICS codes 511210, 561320 and 561330

To qualify as an eligible corporation, a corporation must satisfy certain requirements relating to services supplied. Accordingly, at least 75% of the corporation's gross income for a taxation year from its activities grouped under NAICS code 541510 (Computer Systems Design and Related Services) must be attributable to services:

— whose ultimate recipient is a person or a partnership with which the corporation is at arm's length;

— relating to an application developed by the corporation and used exclusively outside Québec.[29]

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27 See note 20, Appendix A, sec. 13.5, subp. 2, par. 1.

28 *Ibid.*, Appendix A, sec. 13.5, subp. 2, par. 2.

29 *Ibid.*, Appendix A, sec. 13.6, subp. 1.

In this regard, the ultimate recipient of the services a corporation supplies to a person or a partnership in the course of activities grouped under NAICS code 541510 is the person or partnership that uses, directly or indirectly, the applications that the corporation developed following the supply of such services. This does not mean the customers of such person or such partnership.[30]

However, monitoring since the introduction of the TCEB has indicated that a change needs to be made to the criterion relating to services supplied to better reflect the objectives of this tax credit. Accordingly, a change will be made to this criterion to maintain its uniformity with the criteria relating to activities further to the changes made to it by this information bulletin.

In this context, changes will be made to the criterion relating to services supplied so that a corporation's gross income arising from its activities grouped under NAICS codes 511210 (software publishers), 561320 (temporary help services) and 561330 (professional employer organizations) is also considered for the purposes of this criterion for the eligibility of a corporation.

More specifically, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended regarding the criterion relating to services supplied so that a corporation may qualify as an eligible corporation for the purposes of the TCEB only if 75% or more of its gross income for a year arising from activities grouped under NAICS codes 511210, 541510, 561320 and 561330 is attributable to the services described below:

- concerning the corporation's gross income arising from activities grouped under NAICS codes 511210 and 541510, it is attributable to services:
  - whose ultimate recipient is a person or a partnership with which the corporation is at arm's length,
  - relating to an application developed by the corporation and used exclusively outside Québec;
- concerning the corporation's gross income arising from activities grouped under NAICS codes 561320 and 561330, it arises from services the corporation supplies to a person or a partnership (hereunder "personnel lessee") in the course of activities grouped under these codes that, simultaneously:
  - ultimately relate to applications that result from activities grouped under NAICS codes 511210 or 541510 that were developed either for the benefit of the personnel lessee to which the corporation supplies services in the course of activities grouped under NAICS codes 561320 and 561330, or for the benefit of another person or partnership to which the personnel lessee supplies services in the course of activities grouped under NAICS codes 511210 or 541510,

30 *Ibid.*, Appendix A, sec. 13.6, subp. 3.

- are ultimately attributable to the services that result from activities grouped under NAICS codes 511210 or 541510, i.e.:
  - services whose ultimate recipient is a person or a partnership with which the corporation is at arm's length,
  - services relating to an application developed by the corporation or by the personnel lessee and used exclusively outside Québec.

In the case of the corporation's gross income arising from activities grouped under NAICS codes 511210 and 541510, the notion of ultimate recipient of the services a corporation supplies to a person or a partnership will be adjusted to target these activities grouped under these codes.

In the case of the corporation's gross income arising from activities grouped under NAICS codes 561320 and 561330, the ultimate recipient of the services resulting from activities grouped under NAICS codes 511210 and 541510 where a corporation supplies services to a personnel lessee in the course of activities grouped under NAICS codes 561320 and 561330 will be the person or the partnership that uses, directly or indirectly, the applications resulting from activities grouped under NAICS codes 511210 and 541510, but not the customers of such person or such partnership.

These changes will apply regarding a taxation year of a corporation that begins after the day of publication of this information bulletin.

❑ Special application date

A corporation may elect to have the changes made to personnel leasing activities and to the criterion relating to services supplied, in their entirety and subject to the exception mentioned below, apply to the taxation year that includes the day of publication of this information bulletin.

The corporaton must submit such election to Investissement Québec at the time it applies for certification for the purposes of the TCEB in relation to such taxation year.

This election will not cover the change concerning the addition of a corporation's gross income arising from its activities grouped under NAICS code 511210 or that concerning the addition of a corporation's gross income arising from its activities grouped under NAICS codes 561320 and 561330 that ultimately relate to applications that result from activities grouped under NAICS code 511210.

❑ Change to the calculation details of the TCEB

Generally speaking, the salary paid to an employee must be reduced by the amount of any government assistance attributable to such salary before being included in the calculation of a tax credit. In this regard, the amount of the federal government's investment tax credit for scientific research and experimental development (hereunder "federal ITC") constitutes an amount of government assistance.[31]

31 *Taxation Act* (S.Q., chapter I-3), sec. 1029.6.0.0.1, subp. 2, par. *b*.

However, when the TCEB was put in place,[32] it was specified that the purpose of this tax credit was to consolidate the development of information technology throughout Québec and, on that account, that it seeks to replace various fiscal measures. In this context, an eligible corporation may irrevocably elect to receive the TCEB[33] rather than a:

— tax credit relating to salaries for an innovative project;[34]

— tax credit relating to the carrying out of specified activities in a designated site;[35]

— tax credit relating to the salaries of employees working in E-Commerce Place or the refundable credit for the employer contribution to the Health Services Fund;[36]

— refundable tax credit regarding salaries paid to specified employees in relation to specified activities in the biotechnology field carried out in a biotechnology development centre (BDC);[37]

— refundable tax credit for major employment-generating projects.[38]

According to the existing tax legislation, the amount of the federal ITC does not constitute an amount of government assistance for these fiscal measures that the TCEB is designed to replace.[39] In addition, the intention of the fiscal policy underlying the TCEB is that the federal ITC have the same tax treatment for the purposes of the TCEB as that stipulated for the purposes of the fiscal measures it seeks to replace.

Consequently, the tax legislation will be amended so that the amount of the federal ITC does not constitute an amount of government assistance for the purposes of the TCEB. The application of this amendment will be declaratory.

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32 See note 18, page A.80.

33 *Taxation Act*, sec. 1029.8.36.0.3.80.

34 *Ibid.*, sec. 1029.8.36.0.17.

35 *Ibid.*

36 *Ibid.*, sec. 1029.8.36.0.3.46 and *Act respecting the Régie de l'assurance maladie du Québec* (S.Q., chapter R-5), sec. 34.1.9.

37 *Taxation Act*, sec. 1029.8.36.0.17.

38 *Ibid.*, sec. 1029.8.36.0.3.72.

39 *Ibid.*, sec. 1029.6.0.0.1, subp. 2, par. *h* and *i*. However, according to paragraph *b*) of such indent 2, the amount of the federal ITC constitutes an amount of government assistance for the purposes of the refundable tax credit for major employment generating projects.

2.2 Streamlining of the refundable tax credits designed to encourage the creation of new financial services corporations

In the March 20, 2012 Budget Speech, refundable tax credits were implemented to encourage the creation of new financial services corporations.[40]

Briefly, an eligible corporation may claim a refundable tax credit for the hiring of employees representing 30% of the eligible salary it pays to its eligible employees during a taxation year included in its five-year period of eligibility for this tax credit. However, the tax credit is limited to $30 000 per eligible employee on an annual basis.

In addition, an eligible corporation may claim a refundable tax credit representing 40% of the eligible expenditures it pays during a taxation year included in this five-year period. However, the tax credit is limited to $150 000 on an annual basis.

A corporation must submit an application with all the required information to the Minister of Finance and the Economy before the end of its second fiscal period and no later than December 31, 2017, to obtain a qualification certificate for the purposes of these refundable tax credits.

However, some corporations may have been eligible for these tax credits, but the end of their second fiscal period was practically concomitant with the day the introduction of these tax credits was announced. Such corporations are at a disadvantage because they had less time to submit an application to the Minister of Finance and the Economy to obtain a qualification certificate for the purposes of these refundable tax credits.

In addition, other corporations that were incorporated two years or less before the day the introduction of these tax credits was announced are not eligible because the end of their second fiscal period preceded that day because their first fiscal period was less than one year long.

To correct this situation, a transitional rule will be introduced to the *Act respecting the sectoral parameters of certain fiscal measures*[41] allowing such corporations to apply for a certificate for the purposes of these tax credits.

More specifically, the *Act respecting the sectoral parameters of certain fiscal measures* will be amended so that a corporation whose first fiscal period began after March 20, 2010 may submit an application for a qualification certificate for the purposes of the refundable tax credits designed to encourage the creation of new financial services corporations by whichever of the following dates occurs latest:

— either before the end of its second fiscal period;

— or before July 1, 2013.

40 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2012-2013 – Additional Information on the Fiscal Measures of the Budget*, March 20, 2012, p. 42-50.

41 S.Q., chapter P-5.1.

2.3 Clarification concerning the refundable tax credit for resources

A qualified corporation that incurs eligible expenses during a taxation year can claim a refundable tax credit for resources, for such year, of up to 38.75% of the amount of such eligible expenses.

The rate of the tax credit a qualified corporation may claim in relation to the eligible expenses it incurs varies according to a number of parameters, including the type of resource to which the eligible expenses are connected, the place where such expenses are incurred, the type of corporation that incurs such expenses, as well as the date when such expenses are incurred.

In the March 20, 2012 Budget Speech,[42] reductions in certain rates of the refundable tax credit for resources were announced regarding eligible expenses incurred after December 31, 2013.[43] Among other reductions, the rate of the tax credit a qualified corporation may receive was reduced from 15% to 10% for eligible expenses incurred after December 31, 2013 that relate to natural resources in Québec consisting of granite, sandstone, limestone, marble or slate, to the extent that such resources are intended to be used for the production of dimension stones, cemetary monuments, building stones, paving stones, curbing and roof tiles (hereunder called "natural resources relating to dimension stones").

However, it was announced at the time that a qualified corporation could claim an increase in the rate of the refundable tax credit for resources corresponding to the reduction in the rate applicable in exchange for an option to the state to acquire an equity stake in the development.

Since the government does not wish to obtain from a corporation qualified for the tax credit an option to acquire an equity stake in the development of natural resources relating to dimension stones, the tax legislation will be clarified so that the rate of the tax credit a qualified corporation may claim for eligible expenses incurred after December 31, 2013 that relate to natural resources relating to dimension stones may not be increased in exchange for an option to the state to acquire an equity stake in the development and, in all circumstances, will be 10%.

For greater clarity, the other rules applicable to the refundable tax credit for resources will remain unchanged.

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42 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2012-2013 – Additional Information on the Fiscal Measures of the Budget*, March 20, 2012, p. 53-55.

43 Where eligible expenses incurred before January 1, 2014 are reasonably attributable to work carried out after December 31, 2013, such eligible expenses will be deemed incurred after that date.

3. OTHER MEASURES

3.1 Increase in the lodging tax in the Lanaudière, Mauricie, Saguenay–Lac-Saint-Jean and Charlevoix tourist regions

The government has set up a tourist partnership fund to strengthen and sustain tourist promotion and development in Québec. The fund is financed in part by a lodging tax applicable to each accommodation unit rented in a sleeping-accommodation establishment located in a tourist region of Québec that makes such a request to the government through its regional tourist association (RTA).

The revenues generated by this tax, after deducting the costs of its administration, are remitted to the participating regions and the amounts thus remitted are used in accordance with the terms and conditions agreed to in a memorandum of understanding between Tourisme Québec and the RTAs of these participating regions.

RTAs that want the lodging tax to apply within their territory can choose between a specific tax of $2 or $3 per overnight stay, or an ad valorem tax of 3% of the price of each overnight stay.

The specific tax on lodging of $2 per overnight stay has applied in the Charlevoix tourist region since October 1, 2001, in the Saguenay–Lac-Saint-Jean tourist region since July 1, 2002 and in the Lanaudière and Mauricie tourist regions since April 1, 2004. Following requests made by the RTAs of these regions, the specific tax of $2 per overnight stay will be replaced, as of February 1, 2013, with the specific tax of $3 per overnight stay in the Lanaudière, Mauricie and Saguenay–Lac-Saint-Jean tourist regions and by the ad valorem tax of 3% of the price of each overnight stay in the Charlevoix tourist region.

Accordingly, the operator of a sleeping-accommodation establishment located in the Lanaudière, Mauricie or Saguenay–Lac-Saint-Jean tourist region will have to collect or pre-collect the specific tax on lodging of $3, as the case may be, for any accommodation unit rented in its establishment that it bills after January 31, 2013 for occupation after that date.

As for the operator of a sleeping-accommodation establishment located in the Charlevoix tourist region, he will have to collect the 3% tax or pre-collect the tax of $3 for any accommodation unit rented in its establishment that it bills after January 31, 2013 for occupation after that date. Indeed, where a customer acquires an accommodation unit in a sleeping-accommodation establishment located in the Charlevoix tourist region from a person that acquired the unit from another person solely to re-supply it for a price, the lodging tax will not be 3% of the price of each overnight stay but rather $3 per overnight stay. In such a case, the imposition of a specific tax of $3 rather than an ad valorem tax of 3% enables the lodging tax pre-collection system to be applied, which ensures the direct nature of the tax while simplifying its administration that is entrusted essentially to operators of sleeping-accommodation establishments.

However, the operator of a sleeping-accommodation establishment located in any of these four tourist regions will not have to pre-collect the $3 tax for accommodation units billed to a travel intermediary, where the price of such units was set under an agreement reached before February 1, 2013 between the operator and the intermediary and their occupation by tourist customers takes place between January 31, 2013 and November 1, 2013. In these circumstances, the operator will continue to be required to pre-collect the existing $2 tax.

3.2 Recognition of certain investments made by Capital régional et coopératif Desjardins

Capital régional et coopératif Desjardins is an investment corporation whose mission is to marshal venture capital for Québec's resource regions and the cooperative movement.

In just a few years, this corporation has carved out a significant place in Québec's venture capital industry, especially among small and medium-size enterprises in the regions. Capital régional et coopératif Desjardins, through its sustained presence in the resource regions, helps stimulate regional economic development. As a result, over the years, it has become an indispensable tool for small and medium-size enterprises in the regions that need capital to achieve financial self-sufficiency and maturity.

Since Capital régional et coopératif Desjardins was formed, the government has supported its mission by allowing individuals who acquire its shares to claim a tax benefit. This benefit, which consists of a non-refundable tax credit equal to 50% of the issue price of the shares, is designed to encourage individuals to participate in Québec's economic development.

Since Capital régional et coopératif Desjardins's financing is made easier by granting a tax benefit, an investment requirement was included in its statute of incorporation to ensure, in particular, that the funds collected are used as a financing tool contributing to the development of Québec entities.

This requirement stipulates that, for each fiscal year, the eligible investments of Capital régional et coopératif Desjardins – that include no security or hypothec – must represent, on average, at least 60% of its average net assets for the preceding fiscal year, and a portion, hereunder called "regional component", representing at least 35% of such percentage must be made in eligible cooperatives or in entities located in Québec's resource regions.[44]

If any component of the investment requirement is not satisfied for a given fiscal year, Capital régional et coopératif Desjardins becomes subject to a special tax.

Over the years, the investment requirement has been changed to better adapt it to the capital requirements of Québec companies and to enable Capital régional et coopératif Desjardins to play a larger role in the economy.

Currently, for the purposes of this requirement, eligible investments include, among others, investments in small and medium-size Québec enterprises, investments in major projects with a structuring effect on the economy, strategic investments made in accordance with an investment policy approved by the Minister of Finance and the Economy as well as investments made in certain local venture capital funds created and managed in Québec.

To better recognize the participation of Capital régional et coopératif Desjardins in the development of Québec's economy, its statute of incorporation will be amended.[45]

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44 I.e. Abitibi-Témiscamingue, Bas-Saint-Laurent, Côte-Nord, Gaspésie–Îles-de-la-Madeleine, Mauricie, Nord-du-Québec and Saguenay–Lac-Saint-Jean.

45 *Act constituting Capital régional et coopératif Desjardins* (S.Q, chapter C-6.1).

❑ Participation in the Fonds Relève Québec, S.E.C.

To facilitate business transfers to new generations of entrepreneurs, the Fonds Relève Québec, S.E.C., with capital of $50 million, was formed on November 11, 2011. The fund's capital is provided in the following proportions: 40% by the Québec government, 20% by Capital régional et coopératif Desjardins and 20% each by Québec's two labour funds.

To recognize the contribution of Capital régional et coopératif Desjardins to this initiative in support of business succession, its statute of incorporation has been amended to stipulate that investments that include neither security nor hypothec made in the Fonds Relève Québec, S.E.C. – as well as the investments that are agreed and for which funds have been committed but not yet disbursed at the end of a given fiscal year – are considered, in a proportion of 150%, eligible investments for the purposes of its general investment requirement.

Currently, the investments made by Capital régional et coopératif Desjardins in the Fonds Relève Québec, S.E.C. cannot be taken into consideration for the purposes of the regional component of its investment requirement, since this fund does not concentrate its efforts exclusively on the succession of businesses located in the resource regions.

However, given the investment policy that the Fonds Relève Québec, S.E.C. intends to follow, it is reasonable to consider that a proportion equal to 35% of the fund's capital will be allocated to the succession of businesses located in the resource regions.

Accordingly, to recognize the contribution of Capital régional et coopératif Desjardins to regional economic development through the Fonds Relève Québec, S.E.C., its statute of incorporation will be amended to stipulate that a proportion equal to 35% of any investment it makes in this fund, including those that are agreed, will be considered an investment made in an entity located in a resource region of Québec for the purposes of the regional component of its investment requirement.

This amendment will apply to any fiscal year of Capital régional et coopératif Desjardins beginning after December 31, 2011.

❑ Major investments

The investments eligible for the investment requirement imposed on Capital régional et coopératif Desjardins can include certain major investments that, in the view of the Minister of Finance and the Economy, are of strategic value.

More specifically, an investment, that includes neither security nor hypothec, made in a corporation or a partnership, may qualify as a major investment if it consists of an initial capital outlay of at least $25 million or of an additional capital outlay, provided, on the one hand, that the strategic value of the initial capital outlay and of the additional capital outlay, if any, was recognized by the Minister of Finance and the Economy and, on the other, that such investment is not an investment otherwise eligible.

However, the major investments that can be included for the purposes of the investment requirement of a given fiscal year cannot exceed 7.5% of the net assets of Capital régional et coopératif Desjardins at the end of the preceding fiscal year.

To prevent the investment requirement imposed on this corporation from restricting its participation in major projects with a structuring effect on Québec's economy, the maximum portion of the net assets of Capital régional et coopératif Desjardins that may be allocated to major investments for the purposes of its investment requirement of a given fiscal year will be raised from 7.5% to 10% of its net assets at the end of the preceding fiscal year.

This amendment will apply to any fiscal year of Capital régional et coopératif Desjardins beginning after December 31, 2012.

4. FEDERAL LEGISLATION AND REGULATIONS

4.1 Online filing of tax returns prepared by tax preparers

To improve the efficiency of the operations of the tax authorities, certain persons are currently required to file online certain documents or returns required under the tax legislation or regulations.

This obligation is imposed when more than 50 tax slips of the same type must be filed by the same issuer, such as an employer, educational institution, government department, organization, financial institution, daycare centre, partnership or trust.

Some corporations are also required to file their tax return online.[46]

In addition, since the *Jobs, Growth and Long-term Prosperity Act*[47] was assented to, tax preparers are, subject to certain exceptions, required to file online with the Canada Revenue Agency tax returns done for consideration for any taxation year after 2011 that are filed after 2012.

Briefly, for a calendar year, a person or partnership that prepares, during the year and for consideration, more than 10 corporate tax returns or more than 10 income tax returns for individuals other than trusts[48] is considered a tax preparer for such year.

A tax preparer who omits to send to the Canada Revenue Agency a tax return according to the stipulated terms will be fined $25 for each failure to thus file an individual's return and $100 for each failure to thus file a corporation's return.

To maintain harmonization in this field and in the interests of efficiency, Québec's tax legislation will be amended to incorporate, with adaptations based on its general principles, the federal measures concerning online filing of tax returns prepared by tax preparers.[49] The amendments will apply on the same dates as those for the purposes of the federal measures to which they are harmonized.

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46 In general, corporations that must file online are those whose gross income exceeds $1 million.

47 S.C. 2012, c. 19, assented to June 29, 2012. This statute implements a number of provisions of the federal budget of March 29, 2012, as well as certain measures for which no announcement was made, including those on tax preparers.

48 However, an employee who produces tax returns in the course of carrying out his duties is not a tax preparer.

49 These measures are stipulated in sections 150.1(2.2) to (2.4) and 162(7.3) of the *Income Tax Act* (R.S.C., 1985, c. 1 (5th Supp.)).

4.2 Draft legislation concerning specified investment flow-through entities, real estate investment trusts and publicly traded corporations

On July 20, 2011, the Minister of Finance of Canada released proposed amendments to the provisions of the *Income Tax Act*[50] concerning the tax treatment of specified investment flow-through entities (hereunder "SIFTs"), real estate investment trusts (hereunder "REITs") and publicly-traded corporations. These proposals covered publicly-traded stapled securities of SIFTs, REITs and corporations, excluded subsidiary entities under the SIFT regime, non-portfolio property of a corporation under the SIFT regime and tax instalments of SIFTs.[51]

On July 25, 2012, the Minister of Finance of Canada released draft legislation implementing the measures announced on July 20, 2011.[52]

Like the federal tax legislation, Québec's tax legislation contains provisions covering the tax treatment of SIFTs and REITs. While Québec's tax system for SIFTs is a separate tax system, Québec's tax legislation is harmonized with the federal tax legislation as far as the tax treatment of SIFTs and REITs is concerned. In addition, the Québec government supports the federal government's objectives with respect to the proposed amendments relating to publicly-traded stapled securities.

Consequently, Québec's tax legislation will be amended to incorporate, with adaptations based on its general principles, the legislative proposals concerning SIFTs, REITs and publicly-traded corporations released on July 25, 2012.

Moreover, these amendments to Québec's tax legislation will be adopted only after any federal law arising from these proposals is assented to, taking into account technical amendments that might be made prior to such assent. These amendments will apply as of the same dates as those retained for the purposes of the amendments to the federal tax legislation with which they are harmonized, with the exception of the proposed amendments concerning tax instalments of SIFTs, which will apply to taxation yeas beginning after the date of publication of this Information Bulletin.

Lastly, the draft legislation released on July 25, 2012 proposes amendments to the *Income Tax Act* regarding the withholding of Canadian tax on an amount of income that becomes payable to a non-resident of Canada by a trust residing in Canada that leaves Canada before the amount of income is effectively paid or credited.

These amendments will not be retained since Québec's tax legislation does not contain corresponding provisions.

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50 R.S.C., 1985, c. 1 (5th Supp).

51 DEPARTMENT OF FINANCE CANADA, *News Release 2011-058*, July 20, 2011.

52 DEPARTMENT OF FINANCE CANADA, *News Release 2012-082*, July 25, 2012.

4.3 Tax treatment of payments by the federal government to the parents of a crime victim

On April 20, 2012, the Prime Minister of Canada announced the implementation, as of January 1, 2013, of an income support program for parents of murdered or missing children.

The program will provide a benefit of $350 per week, for up to 35 weeks, to parents who lose their income because they leave work as a result of the death or disappearance of a child following a *Criminal Code* offence. To receive this new benefit, the parents concerned will have to have earned a minimal level of income in the previous calendar year and have taken leave from their employment.

To implement this new support program for parents, the *Helping Families in Need Act*[53] amends the *Canada Labour Code* to entitle an employee to take leave upon the death or disappearance of his child, where such death or disappearance is likely the result of a crime.

It also amends the federal tax legislation and regulations to stipulate the tax treatment that will apply to the benefits paid under the new income support program for parents. Briefly, these amendments stipulate that:

- an individual will have to include, in calculating his income, the benefits received under the new federal income support program for parents of children whose death or disappearance is the result of a proven or likely *Criminal Code* offence;
- the benefits paid under the new income support program will be subject to tax withholding at source;
- an individual may deduct, in calculating his income, any amount paid as repayment of a benefit received under the new income support program, provided such benefit was included in the calculation of his income.

Given that, in general, Québec's tax system is harmonized with the federal tax system with respect to the tax treatment applicable to benefits paid under a federal program, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the federal measures relating to the tax treatment applicable to benefits paid under the new income support program for parents of children whose death or disappearance is the result of a proven or likely *Criminal Code* offence.[54] These amendments will apply as of January 1, 2013.

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53 S.C. 2012, c. 27, assented to December 14, 2012.

54 These measures are stipulated in paragraphs 56(1)*a*.3), 60*v*) and 153(1)*d*.2) of the *Income Tax Act* (R.S.C., 1985, c. 1 (5th Supp.)) and in paragraph *g*.1) of the definition of the expression "remuneration" stipulated in subsection 100(1) of the Income Tax Regulations (C.R.C., c. 945).

4.4 Harmonization with certain measures contained in the *Jobs and Growth Act, 2012*

On December 14, 2012, the *Jobs and Growth Act, 2012*[55] received royal assent. The purpose of this legislation is essentially to implement several provisions of the federal budget of March 29, 2012.

Other than regarding certain measures concerning scientific research and experimental development (R&D), Québec's position on the fiscal measures contained in this statute that acts on the federal budget of March 29, 2012 or News Release 2011-009 of the Department of Finance Canada has already been made public by means of information bulletins released by the Minister of Finance and the Economy.[56]

The *Jobs and Growth Act, 2012* also implements the set of tax rules relating to pooled registered pension plans as well as a new measure designed to make certain income received from a retirement compensation arrangement eligible for pension income splitting.

❑ Measures relating to R&D

On July 6, 2012, the Minister of Finance announced that Québec's tax legislation would not be harmonized with certain amendments to the federal tax legislation regarding R&D that were implemented by the *Jobs and Growth Act, 2012*.[57]

At that time, it was also specified that analysis of the following amendments to the federal tax legislation was ongoing:[58]

— the exclusion of the portion of the amount of a research contract entered into with a person at arm's length relating to capital expenditures (BR 20*c*) in part);[59]

— the change to the R&D program concerning the percentage at which the proxy amount is calculated (BR 20*d*));

— the exclusion of capital expenditures (including payments in respect of the use or the right to use property that would, if it were acquired by a taxpayer, be capital property of the taxpayer) from expenditures giving rise to the R&D investment tax credit and deductions (BR 20e));

— any other change necessary to give effect to the various changes to the R&D program (BR 21).

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55 S.C. 2012, c. 31.

56 Concerning the measures contained in the federal budget of March 29, 2012, Québec's position was made public in *Information Bulletin 2012-5* of July 6, 2012. As for the measures relating to the sales tax that were announced by the Department of Finance Canada in News Release 2011-009 of January 28, 2011, Québec's position was made public in *Information Bulletin 2011-3* of July 6, 2011 and *Information Bulletin 2012-4* of May 31, 2012.

57 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2012-5*, July 6, 2012.

58 *Ibid.*, *p.* 5.

59 The references in parentheses correspond to the number of the budget resolution (BR) of the *Notice of Ways and Means Motion to Amend the Income Tax Act* tabled in the House of Commons on March 29, 2012.

The Minister of Finance and the Economy is continuing its study of these changes to the R&D program and, subject to the harmonization announcement below, will make its position known in the coming months.

Accordingly, it can already be stated that Québec's tax legislation will be amended, taking its specific features into account, to incorporate the change to the R&D program concerning the percentage at which the proxy amount is calculated (BR 20d)). The changes to Québec's tax system will apply on the same dates as those for the purposes of the federal measures with which they are harmonized.

❑ Measures relating to pooled registered pension plans

Since the reform of tax assistance for retirement savings implemented in the early 1990s, the tax rules relating to retirement savings that apply under Québec's tax system are completely harmonized with those under the federal tax system.

Given the degree of complexity of the provisions introduced by this reform, for individuals, employers and the tax administration, harmonization with the federal measures did not result in the incorporation of all of these measures in Québec's legislation.

Indeed, in the interests of simplification, the *Taxation Act*[60] stipulates that a retirement savings plan that is certified or registered by the Minister of Revenue of Canada and whose certification or registration is in force is, as the case may be, a registered pension plan, a deferred profit-sharing plan, a registered retirement savings plan or a registered retirement income fund for the purposes of Québec's tax system.

It also stipulates that the amounts that may be deducted notably on account of contributions or premiums to such plans are those allowed as deductions for the purposes of the federal tax system.

However, the federal rules relating to the taxation of amounts from these various retirement savings plans were incorporated into Québec's legislation.

Accordingly, since pooled registered pension plans are retirement savings mechanisms, the approach taken regarding harmonization with the federal tax measures relating to such plans is essentially the same as the one taken following the reform of tax assistance for retirement savings.

Briefly, this approach will involve recognition of the registration of pooled pension plans by the Minister of Revenue of Canada, so that the registration conditions of these plans would not be incorporated into the *Taxation Act*. Accordingly, for the purposes of Québec's tax system, a pooled registered pension plan will be a pooled pension plan accepted for the purposes of the *Income Tax Act* by the Minister of Revenue of Canada as a pooled registered pension plan and whose registration is in force.

The federal measures relating to the deductibility of contributions to a pooled registered pension plan will be incorporated into the *Taxation Act* by means of a reference to the federal legislation, so that the amounts deductible on that account are those allowed as a deduction for the purposes of the federal tax system.

60 S.Q., chapter I-3.

For their part, the federal measures relating to the tax treatment of amounts from a pooled registered pension plan and the income of the trust governed by such a plan will be incorporated into the *Taxation Act*.

Moreover, concerning the consequential amendments introduced to reflect pooled registered pension plans, the harmonization decisions essentially depend on whether or not provisions equivalent to those amended at the federal level are present in Québec's tax legislation and regulations.

Accordingly, Québec's tax legislation and regulations will be amended to incorporate, taking their specific features into account, certain measures relating to pooled registered pension plans implemented by the *Jobs and Growth Act, 2012*. The amendments to Québec's tax system will apply on the same dates as those for the purposes of the federal measures with which they are harmonized.

The following tables list the measures that will be retained and those that will not.

List of measures retained

Measures that are to be incorporated into Québec's tax legislation and regulations with adaptations based on their general principles	**References[1]**
- Measure relating to the non-taxation of the benefit resulting from contributions to a pooled registered pension plan	6(1)*a*)(i) ITA
- Measure relating to the non-deductibility of certain expenses for a loan contracted to contribute to a pooled registered pension plan	18(11)*c*) ITA
- Measure relating to the deductibility of employer contributions to a pooled registered pension plan, provided the inclusion of this measure is made by reference to the amount allowed as a deduction under the *Income Tax Act*	20(1)*q*) ITA
- Measure relating to exceptions to the definition of the expression "life insurance policy" for the purposes of paragraphs 20(1)*c*) and *d*) of the *Income Tax Act*	20(2.2)*a*) ITA
- Measure relating to the inclusion of benefits from a pooled registered pension plan in calculating income	56(1)*z*.3) ITA
- Measure relating to the exceptions to the application of attribution rules	75(3)*a*) ITA
- Measure relating to the exclusion of a trust governed by a pooled registered pension plan from the definition of the expression "trust"	108(1) ITA / "trust"
- Measure relating to the definition of the expression "investment expense" for the purposes of determining the cumulative net investment loss	110.6(1) ITA / "investment expense"
- Measure relating to the definition of the expression "pension income" for the purposes of the pension tax credit and the retirement income splitting mechanism between spouses	118(7) ITA / "pension income"
- Measure relating to "segregated fund" policies	138.1(7) ITA
- Measure relating to the rules used to determine whether a child or grandchild is financially dependent on an individual	146(1.1) ITA
- Measure relating to an individual's account in a defined pension plan	146(21.2) ITA
- Measure relating to amounts transferred from a registered retirement income fund	146.3(14.1) ITA
- Measure relating to the definition of the expressions "administrator", "single amount", "member", "successor member", "pooled pension plan", "qualifying annuity" and "qualifying survivor"	147.5(1) in part ITA

- Measure relating to the tax treatment of income earned by a trust governed by a pooled registered pension plan	147.5(8) ITA
- Measure relating to the deductibility of employer contributions to a pooled registered pension plan, provided the inclusion of this measure is made by reference to the amount allowed as a deduction under the *Income Tax Act*	147.5(10) ITA
- Measure relating to the presumption under which a contribution paid to a pooled registered pension plan is a premium to a registered retirement savings plan for the purposes of certain legislative provisions	147.5(11) ITA
- Measure relating to the presumption under which a member's account under a pooled registered pension plan is deemed to be a registered retirement savings plan for the purposes of certain legislative and regulatory provisions	147.5(12) ITA
- Measure relating to the taxation of amounts from a pooled registered pension plan	147.5(13) ITA
- Measure relating to the amounts deemed distributed in the event of the death of a member of a pooled registered pension plan in the absence of a successor member	147.5(14) ITA
- Measure relating to the rules that apply in the event of the death of a member of a pooled registered pension plan where there is a successor member	147.5(15) ITA
- Measure relating to the distribution of amounts in the account of a pooled registered pension plan to a qualifying survivor	147.5(16) ITA
- Measure relating to the deemed distribution of amounts in the account of a pooled registered pension plan to a qualifying survivor	147.5(17) ITA
- Measure relating to the distribution of amounts in the account of a pooled registered pension plan to a person other than a qualifying survivor	147.5(18) ITA
- Measures relating to the decline in the value of the account under a pooled registered pension plan after a member's death	147.5(19) and 147.5(20) ITA
- Measures relating to the authorized transfer of amounts in a participant's account under a pooled registered pension plan	147.5(21) and 147.5(22) ITA
- Measure relating to the taxation of a qualifying annuity acquired with funds transferred from a pooled registered pension plan	147.5(23) ITA
- Measure relating to the calculation of income of a life insurance policyholder	148(1)*b*.3) ITA
- Measure relating to the tax exemption allowed to a trust governed by a pooled registered pension plan	149(1)*u*.3) ITA
- Measure relating to the power to issue a new assessment to reflect the decline in the value of the account under a pooled registered pension plan after a member's death	152(6)f.3) ITA
- Measure relating to the definition of the expressions "retirement compensation arrangement", "salary deferral arrangement" and "superannuation or pension benefit"	248(1) in part ITA
- Measure relating to the meaning of the term "spouse"	252(3) ITA
- Measure relating to investments in a limited partnership	253.1 ITA
- Measure relating to the exemption from tax withholding at source on certain amounts distributed from a pooled registered pension plan	100(1) ITR / "remuneration"
- Measure relating to amounts excluded from remuneration subject to tax withholding	100(3) ITR

- Measure relating to the filing by the administrator of a pooled registered pension plan of an information statement concerning the plan	213 ITR
- Measure relating to a prescribed annuity contract	304(1) ITR
- Measure relating to the addition of pooled registered pension plans to the list of tax-exempt pension fund investment and management companies	4802(1)*c*.3) ITR
- Measure relating to the addition of trusts governed by a pooled registered pension plan to the list of persons who may be beneficiaries of a master trust	4802(1.1)*e*) ITR
Measures that, while no legislative amendment is required, will also be retained	
- Measure relating to the limit applicable to employer contributions under a profit sharing plan	18(1)*k*)(iii) ITA
- Measure relating to the rollover of certain amounts received following the death of a member of a pooled registered pension plan	60*l*)(v)(A.1), 60*l*)(v)(B.01) and 60*l*)(v)(B.1)(II)1 ITA
- Measures relating to the transfer to a registered disability savings plan of amounts from a pooled registered pension plan of a deceased member	60.02(1) ITA
- Measure relating to the determination of maximum amount deductible on account of RRSPs of an individual for the year in which he goes bankrupt	128(2)*d*.1) ITA
- Measure relating to the inclusion of the contributions of an employer to a pooled registered pension plan for the purposes of the determination of the amount of unused RRSP deduction room	146(1) ITA / "unused RRSP deduction room"
- Measures relating to the calculation of the amount eligible as a registered retirement savings plan premium deduction	146(5)*a*) and 146(5)*b*) ITA
- Measure relating to the calculation of the amount eligible as a spouse's registered retirement savings plan premium deduction	146(5.1)*b*) ITA
- Measure relating to the deductibility of non-deducted registered retirement savings plan premiums	146(8.2)*b*)(iii) ITA
- Measure relating to allowed contributions to a registered pension plan	8502*b*)(iv) ITR

(1) References correspond to the provisions of the *Income Tax Act* (ITA) or the *Income Tax Regulations* (ITR) amended or introduced in the federal legislation or regulations by the *Jobs and Growth Act, 2012*.

List of measures not retained

Measures not retained	References[1]
- Measure relating to the registration conditions of registered retirement income funds	146.3(2)*f*)(viii) ITA
- Measures relating to the definition of the expressions "contribution from exempt income", "participating employer", "excluded investment", "designated pooled pension plan", "exempt earned income" and "non-deductible unused amount on account of RPPPs"	147.5(1) in part, 147.5(29) and 147.5(30) ITA
- Measures relating to the registration of pooled pension plans	147.5(2), 172(3)*h*), 172(3) *in fine* and 172(5) ITA
- Measures relating to the withdrawal of registration of a pooled registered pension plan	147.5(3), 147.5(4), 147.5(24) to 147.5(28), 172(3)*h*), 172(3) *in fine* and 180(1)*c*.2) ITA

- Measure relating to the benefits that can be paid under a pooled pension plan	147.5(5) ITA
- Measure relating to the additional conditions that may be imposed on a pooled registered pension plan	147.5(6) ITA
- Measures relating to the changes made to a pooled registered pension plan	147.5(7), 172(3)*j*), 172(3) *in fine*, 172(5) and 180(1)*d*) ITA
- Measure relating to the administration of a pooled registered pension plan	147.5(9) ITA
- Measures relating to contributions paid to a pooled registered pension plan regarding income earned by an Indian	147.5(31) to 147.5(34) ITA
- Measure relating to the power to make regulations in respect of pooled registered pension plans	147.5(35) ITA
- Measure relating to the tax on excess contributions paid to registered retirement savings plans	204.2 ITA
- Measure relating to the tax on investment income of life insurers	211(1) ITA
- Measure relating to payments received from a pooled registered pension plan by non-residents	212(1)*h*) ITA
- Measures relating to the communication of information concerning pooled registered pension plans	241(4)*d*)(vii) and 241(10) ITA
- Measure relating to the definition of the expressions "specified unitholder" and "registered pension plan"	248(1) in part ITA

(1) References correspond to the provisions of the *Income Tax Act* (ITA) amended or introduced in the federal legislation by the *Jobs and Growth Act, 2012*.

❑ Retirement income splitting between spouses

Like the federal tax system, Québec's tax system includes an income splitting mechanism that enables couples receiving certain retirement income to reduce their overall tax burden.

Currently, Québec's tax system is harmonized with the federal tax system insofar as the categories of retirement income eligible for this splitting mechanism are concerned.

However, the *Jobs and Growth Act, 2012* amends the *Income Tax Act* to stipulate that, in some circumstances, the income received from a retirement compensation arrangement may also, as of taxation year 2013, be eligible for the splitting mechanism.[61]

To maintain harmonization in this field, the *Taxation Act* will be amended to incorporate, with adaptations based on its general principles, the federal measure relating to pension income eligible for the splitting mechanism.[62] This amendment will apply as of taxation year 2013.

61 See note 55, sec. 14. This section replaces the definition of the expression "eligible pension income" in subsection 60.03(1) of the *Income Tax Act*.

62 See the preceding note.

4.5 Harmonization with certain measures contained in Bill C-48

On November 21, 2012, the Minister of Finance of Canada tabled Bill C-48, entitled *Technical Tax Amendments Act, 2012*, in the House of Commons.

Bill C-48 is divided into eight parts, the first six of which contain a series of proposals intended to implement many changes to the income tax and sales tax systems, the majority of which had been released for consultation by the Department of Finance Canada over the last decade.

Over the years, the Ministère des Finances et de l'Économie has made Québec's position known regarding many of the proposals contained in Bill C-48. Some of them have already been incorporated into Québec's tax legislation.

However, Québec's position has yet to be made known on a large number of proposals.

Accordingly, it is useful to recall the positions made known in the past and to state Québec's position regarding proposals for which no announcement has yet been made.

❑ Part 1 of Bill C-48

Part 1 of Bill C-48 implements, in accordance with the proposals announced in the March 4, 2010 federal budget and released for consultation on August 27, 2010,[63] amendments to provisions of the Income Tax Act[64] governing the taxation of non-resident trusts, their beneficiaries and Canadian taxpayers who hold interests in offshore investment fund property.

Since, in general, Québec's tax system is harmonized with the federal tax system as far as the rules relating to foreign investment entities are concerned, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the proposed amendments to the federal tax legislation and regulations relating to offshore investment entities. For greater clarity, the interest rate applicable to calculate the amount to include in calculating the income of a taxpayer who holds foreign investment entity property will correspond to the interest rate stipulated by the federal tax legislation and regulations to calculate the amount that must be included for the purposes of the federal tax system.

63 DEPARTMENT OF FINANCE CANADA, *News Release 2010-074*, August 27, 2010.

64 R.S.C. 1985, c. 1 (5th Supp.).

In addition, since Québec's tax system is generally harmonized with the federal tax system insofar as the rules relating to non-resident trusts are concerned, Québec's tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, the amendments made to the federal tax legislation and regulations by the legislative proposals concerning non-resident trusts. However, a non-resident trust that is deemed to reside in Canada because it has a resident contributor, within the meaning of the legislative proposals, will not be deemed to reside in Québec, for a given taxation year, unless the contributor residing in Canada is also resident in Québec or, if such contributor is a corporation, if it has an establishment in Québec. In the case where the non-resident trust is deemed to reside in Canada because it has a beneficiary resident in Canada and a connected contributor, within the meaning of the legislative proposals, it will not be deemed to reside in Québec unless such beneficiary is also a resident of Québec or, if such beneficiary is a corporation, it has an establishment in Québec, and if a connected contributor made a contribution to the trust, within the meaning of the legislative proposals, while it was resident in Québec or, if such contributor is a corporation, while it had an establishment in Québec.

Moreover, the changes to be made to Québec's tax system will be adopted only after the assent of Bill C-48, taking into account technical amendments that may be made prior to such assent. These changes will apply on the same dates as those for the purposes of the federal measures with which they are harmonized.

❑ Parts 2 and 3 of Bill C-48

Parts 2 and 3 of the Bill make various technical amendments to the provisions of the federal tax legislation and regulations concerning the taxation of Canadian multinational corporations with foreign affiliates.

Generally speaking, Québec's tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, the legislative amendments applicable to the rules relating to foreign affiliates.

However, these amendments will be adopted only after the assent of Bill C-48, taking into account changes that may be made prior to such assent. Lastly, these changes will apply on the same dates as those for the purposes of the federal legislative proposals with which they are harmonized.

❑ Part 4 of Bill C-48

Part 4 of the Bill amends certain provisions of the federal tax legislation arising from the revision process relating to bijuralism.

To better recognize, within Québec's tax system, that civil law and common law are two sources of law that may be applied, it was announced, in Information Bulletin 2002-8, that any amendment to federal tax legislation and regulations arising from the revision process relating to bijuralism will be incorporated into Québec's tax legislation and regulations provided it concerns a provision with which Québec's tax system is harmonized and this amendment is appropriate in the circumstances.[65]

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65 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2002-8*, July 11, 2002, p. 72-73.

❑ Part 5 of Bill C-48

The purpose of Part 5 of the Bill is to implement measures announced in the March 4, 2010 federal budget and in various news releases of the Department of Finance Canada, as well as a series of technical and terminological amendments.

Some of these legislative proposals have already been incorporated into Québec's tax legislation.[66] As for most of the other proposals contained in Part 5 of the Bill, they will be incorporated into Québec's tax legislation and regulations with adaptations based on their general principles. However, the measures retained will be adopted only after the assent of Bill C-48, taking into account changes that may be made to it prior to such assent, and will apply on the same dates as those for the purposes of the federal legislative and regulatory proposals with which they harmonize.

■ Measures not retained

Some measures have not been retained because they do not correspond to features of Québec's tax system or because Québec's tax system has no corresponding provisions or its provisions are satisfactory. The federal measures not retained are listed below. These measures relate to:

— deductions for the purposes of calculating income or loss from a particular source or a source in a particular place (169);[67]

— corrections in the French version of the provisions defining what constitutes an amount remitted for the purposes of taxable benefits arising from debt remission (170(5) and 177(2));

— changes pursuant to the introduction of the Québec Parental Insurance Plan (172(3), 194(2), 196(1) in part, 196(3) and 310);

— technical corrections to certain provisions concerning recaptured depreciation and terminal loss (175(1) and 180(5));

— the addition of the concept of "fault" in the English version of the provisions dealing with the notion of limited partner (183(5) and 228(4));

— the terminological change concerning covenants and the precisions affecting real servitudes established under the Civil Code of Québec (185, 238(9) in part, 238(14) and 248(4) in part);

— the correction to the English version of the exception to principal residence rules (192);

— the determination of income for the purposes of taxation of the universal child care benefit (194(5));

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66 These proposals were incorporated by means of the *Act giving effect to the Budget Speech delivered on 24 May 2007, to the 1 June 2007 Ministerial Statement concerning the government's 2007-2008 budgetary policy and to certain other budget statements* (S.Q. 2009, chapter 5) and the *Act giving effect to the Budget Speech delivered on 13 March 2008 and to certain other budget statements* (S.Q. 2009, chapter 15).

67 The references in parentheses correspond to the number of the sections of Bill C-48.

- the deduction for child care expenses (198);
- the correction of certain references and grammatical errors to the provisions concerning exploration and development expenses (199(2) to 199(5));
- the change made to subsection 66(18) of the *Income Tax Act* (199(7));
- the grammatical corrections to the provisions concerning exploration and development expenses (204(2));
- the correction of a typographical error in the English version of subparagraph 69(1)*b*)(iii) of the *Income Tax Act* (208);
- the correction to a reference to subsection 73(2) of the *Income Tax Act* (211(1));
- the grammatical correction to the provision regarding the time of the deemed dividend (219(2));
- the specific provisions applicable to a corporation resulting from an amalgamation (223(1) to 223(9));
- the terminological change to certain provisions dealing with distributions of property of a trust (233(7));
- the terminological change to the notion of "pre-1986 capital loss balance" (241(4));
- the definition of the expression “qualified Canadian transit organization” for the purposes of the tax credit for transit passes (247);
- certain technical or terminological changes to the provisions concerning the tax credit for medical expenses (249(1) and 249(6) to 249(8));
- the changes to certain provisions concerning the tax credit for a dependant with a severe or prolonged physical or mental impairment (250);
- the changes to the definition of the expression “designated educational institution” for the purposes of the education tax credit (252);
- the changes to the rules for determining the tax credit for contributions payable by workers under public plans (253);
- the clarification concerning the calculation of an amount of hypothetical interest for the averaging of a retroactive lump-sum payment (255);
- the correction to the English version of the definition of the expression “split income” applicable for the purposes of calculating tax on split income (256);
- the calculation of the income of an individual who becomes bankrupt during a year for the purposes of the goods and services tax credit (260);
- the changes made to the notion of “full rate taxable income” (261);

- the changes made to the provisions concerning the small business deduction (262) and the addition of the definition of the expression "relevant factor" (358(20) in part);
- the changes made to the provisions concerning the manufacturing and processing profits deduction (263);
- the change to the notion of "taxable resource income" (264);
- the repeal of the provisions concerning Parts VI.1 and I.3 of the *Income Tax Act* (265 and 266);
- the repeal of the tax credit for unemployment insurance contributions (268) and the consequential changes (309(1), 321(2) and 321(3));
- the terminological changes concerning the logging tax deduction (269(1) to 269(4));
- contributions to registered parties and candidates that may give rise to a tax credit (269(5) and 358(30), where it introduces, regarding monetary contributions, subsections 248(31) to 248(34), 248(39) and 248(41) of the *Income Tax Act*);
- the change concerning the distribution of political contributions among members of a partnership (269(6) and 269(7));
- the changes concerning the investment tax credit (269(8) to 269(11) and 395);
- the changes to the provisions concerning the labour-sponsored funds tax credit (270, 343 to 346 and 404(2));
- the amendment to subparagraph 127.52(1)*h*)(i) of the *Income Tax Act* to strike out a reference (271(5));
- the disallowance, for an individual who obtains an unconditional discharge from bankruptcy, of deductions of certain non-refundable tax credits calculated in relation to expenditures made before his bankruptcy (272);
- the changes to the calculation of the refundable dividend tax on hand (275);
- a technical change to the French version of paragraph 132.11(1)*c*) of the *Income Tax Act* (279(2));
- the changes concerning agricultural cooperatives (282);
- the changes concerning the reduction of corporate tax rates (283(1), 284(1) and 284(3));
- the changes concerning insurance corporations (286(14) and 286(18));
- a change made pursuant to Part XIII of the *Income Tax Act* (290);
- the changes made to the definition of "earned income" (296(1) to 296(4));
- the taxable income of a trust governed by a registered retirement savings plan that holds a non-qualifying investment (296(6));

- the changes concerning registered retirement income funds (300(1) to 300(4) and 301(6));
- certain changes concerning deferred profit sharing plans (301(1) and 301(2));
- certain changes concerning registered pension plans (302, 303, 407(1), 407(2) and 408 to 410);
- the terminological change concerning the calculation of a policyholder's income (305(3));
- the terminological change to the French version of the notion of "relevant contribution" (306(1));
- the correction to a reference in the English version of the expression "enduring property" in subsection 149.1(1)*d*) of the *Income Tax Act* (308(4));
- the changes regarding reassessments (309(4) to 309(6));
- the addition of more references for the purposes of tax instalments (311);
- the calculation of interest on assessments issued in respect of personal, joint and several and solidary liability (312, 313, 315(1), 315(2), 315(4), 316 and 317);
- the calculation of interest regarding an assessment for excess refund (314);
- the changes concerning interests (318);
- the terminological change to the French version of subsection 162(6) of the *Income Tax Act* (319);
- the changes concerning penalties for false statements or omissions (320);
- the repeal of a provision concerning refunds (321(4));
- the repeal of provisions concerning the Tax Court of Canada and the Federal Court of Appeal (322 and 323);
- the changes to the taxation of large corporations (325 and 326);
- the special tax applicable to registered charities (328);
- the changes to the financial institutions capital tax (329 to 331);
- the changes to Part VI.1 of the *Income Tax Act* (332 and 333);
- the changes concerning Parts X, X.3 and X.4 of the *Income Tax Act* (334 to 337);
- the tax under Part XI of the *Income Tax Act* concerning certain property acquired by a trust governed in particular by a registered retirement savings plan (339);
- the tax payable by the recipient of an ecological gift (340);
- the changes to Part XII.2 of the *Income Tax Act* (341 and 342);

- the tax under Part XIII of the *Income Tax Act* on income earned in Canada by non-residents (347 to 349);
- the addition of an exception to the Minister's discretion to waive the filing of certain documents (350(1));
- the changes to section 227 of the *Income Tax Act* (351);
- the change to a provision concerning the keeping of books of account and registers (352);
- the change relating to providing documents or information (353);
- the change to the provision concerning the reporting of foreign property (354);
- the reporting of tax avoidance transactions (356);
- the changes to the provisions concerning the provision of information (357);
- the portion of the change to the definition of "share" concerning a share of the capital of an agricultural cooperative (358(5));
- the terminological change to the French version of the definition of "scientific research and experimental development" (358(19));
- the addition of the definition of the expressions "listed international agreement" and "specified proportion" (358(20) in part);
- the change to the repayment of an input tax refund (358(27));
- the replacement of a reference to the Part XII.2 tax in the definition of individuals who are parties to a void or voidable marriage (362);
- a terminological correction to the French version of subparagraph 256(6)*b*)(ii) of the *Income Tax Act* (364(1));
- certain changes to securities lending arrangements (365(9));
- the changes to the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* (369);
- the changes to the *Federal-Provincial Fiscal Arrangements Act* (370);
- the changes concerning prescribed annuity contracts (378(2));
- the changes concerning amounts paid under License Fee Program of the Canada Media Fund (385);
- the rules concerning establishment of receipts for the purposes of the tax credit for political contributions and the filing of related information returns (388 to 390);
- the terminological change concerning the indication of the date on which a receipt for a gift was issued (393(2));

— the information that must be contained in receipts for gifts issued by a person other than a registered organization (393(5) to 393(7));

— the correction to references to the provision dealing with prescribed donees for the purposes of the measure allowing a non-resident of Canada to reduce the capital gain realized following the gift of capital property (394);

— the changes regarding labour-sponsored venture capital corporations (403 and 404(1)).

■ Clarifications in respect of some of the measures retained

Some technical amendments that will be incorporated into Québec's tax legislation will be handled in a particular way.

Accordingly, the change allowing an employee to deduct some of the amounts paid on his behalf that, had he received them, would have to be included in calculating his income (172(2)) will be adapted so that it also applies to the tax credit for dues to a union or professional association.

The changes concerning the tax credit for employment abroad (259) will be transposed to the deduction for employment abroad and adapted to the specific features of this deduction.

The change stipulating that a receipt for gifts must provide, in addition to the usual information, a description of the benefit on account of the gift, the amount of such benefit and the eligible amount of the gift (393(3)) will be extended to receipts for gifts issued by a person who acquires a work of art other than in the course of his primary mission.

❑ Part 6 of Bill C-48

Part 6 amends the *Excise Tax Act*[68] to implement technical and housekeeping changes announced on October 31, 2011,[69] including the one to relieve the goods and services tax and the harmonized sales tax on the administrative service of collecting or distributing the levy on blank media imposed under the *Copyright Act*.[70]

In this regard, the Québec sales tax (QST) system will be amended to incorporate, with adaptation on the basis of its general principles, this federal relief measure.

The measure will be adopted in the QST system only after Bill C-48 is assented to, taking into account technical amendments that may be made prior to such assent. It will apply on the same date as the one retained for the purposes of the federal measure to which it is harmonized.

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68 R.S.C., 1985, c. E-15.

69 DEPARTMENT OF FINANCE CANADA, *News Release 2011-108*, October 31, 2011.

70 R.S.C., 1985, c. C-42.